

Message Text

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ORIGIN EB-11

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FM SECSTATE WASHDC

TO AMCONSUL RIO DE JANEIRO

INFO AMEMBASSY BRASILIA

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E.O. 11652:N/A

TAGS: ETRN, BR

SUBJECT: CIVAIR: US AIR CARRIER DENIED EXEMPTION FROM
BRAZILIAN FUEL TAXES

1. TRANS-INTERNATIONAL AIRLINES, (TIA) INC.,
SUPPLEMENTAL US AIRLINE HEADQUARTERED OAKLAND, CALIFORNIA,
HAS ASKED DEPT FOR ASSISTANCE IN OBTAINING RELIEF FROM
BRAZILIAN TAXES ON AVIATION FUEL. TAX, ACCORDING TIA
REP HERE, AMOUNTS TO THIRTEEN US CENTS PER GALLON, WHICH IS
SLIGHTLY MORE THAN COST OF FUEL ITSELF.

2. BEGINNING EARLY 1973 TIA INCREASED OPERATIONS TO
BRAZIL. ACCORDING THEIR FIGURES, TIA PAID TAX 65,000
DOLLARS IN JANUARY-MAY, 1974.

3. WITH ASSISTANCE LOCAL ATTORNEY, TIA APPROACHED GOB
AUTHORITIES FOR RELIEF ON GROUNDS RECIPROCITY, SINCE OTHER
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US AIR CARRIERS ARE EXEMPT AND USG HAS RECOGNIZED THIS BY

GRANTING SIMILAR EXEMPTION TO BRAZILIAN CARRIERS IN US. RESPONSE GOB AUTHORITIES AT TIME, ACCORDING TIA, WAS THAT EXEMPTION GRANTED UNDER AEGIS US-BRAZIL CIVIL AIR AGREEMENT, WHICH COVERS SCHEDULED CARRIERS ONLY, THUS NOT TIA.

4. WHILE THIS MAY BE TRUE FROM BRAZILIAN POINT OF VIEW, FACT IS THAT EXEMPTION FROM US FUEL TAX IS (A) AVAILABLE TO

ANY BRAZILIAN-REGISTERED AIRCRAFT ENGAGED IN AIR COMMERCE, AND (B) STEMS FROM A DETERMINATION OF GOB RECIPROCAL TREATMENT FOR SIMILAR US AIRCRAFT MADE BY THE SECRETARY OF COMMERCE. DETERMINATION (T.D. 53282) STATES:

5. "(2) SUPPLIES AND EQUIPMENT FOR AIRCRAFT OF FOREIGN REGISTRY. IN ACCORDANCE WITH SECTION 309(D) OF TARIFF ACT OF 1930, AS AMENDED BY CUSTOMS ADMINISTRATIVE ACTION OF 1938, AND SECTION 3451 OF THE INTERNAL REVENUE CODE, SECRETARY COMMERCE HAS FOUND AND HAS ADVISED SECRETARY TREASURY THAT BRAZIL ALLOWS PRIVILEGES TO AIRCRAFT REGISTERED IN UNITED STATES AND ENGAGED IN FOREIGN TRADE SUBSTANTIALLY RECIPROCAL TO PRIVILEGES PROVIDED FOR IN SECTIONS 309(A) AND 317 OF TARIFF ACT 1930, AS AMENDED BY CUSTOMS ADMINISTRATIVE ACT 1938, AND SECTION 3451 OF INTERNAL REVENUE CODE. THE SAME PRIVILEGES ARE THEREFORE HEREBY EXTENDED TO AIRCRAFT REGISTERED IN BRAZIL." NOTE THAT ABOVE DETERMINATION MAKES NO DISTINCTION BETWEEN SCHEDULED AND NON-SCHEDULED SERVICES, SPEAKS ONLY OF US-REGISTERED AIRCRAFT USED IN FOREIGN TRADE. FYI: WHILE DEPT WOULD NOT WISH IN ANY WAY IMPLY PRESENT JEOPARDY TO VIASA US FUEL TAX EXEMPTION, PRESUMABLY A FORMAL COMPLAINT BY A US CARRIER TO EFFECT THAT GOB WAS NOT EXTENDING RECIPROCITY MIGHT, UNDER US LAW, LEAD TO AUTOMATIC RECONSIDERATION OF COMMERCE DECISION WHICH IS BASIS FOR TAX RELIEF NOW AFFORDED VIASA. END FYI.

6. REQUEST CONGEN RAISE THIS MATTER INFORMALLY WITH APPROPRIATE GOB OFFICIALS. YOU SHOULD TAKE LINE THAT, WHILE US-BRAZIL BILATERAL COVERS ONLY SCHEDULED AIR SERVICES, FACT IS THAT US EXEMPTION IS AVAILABLE ALL BRAZILIAN COM-LIMITED OFFICIAL USE

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MERCIAL AIRCRAFT ON BASIS US LAW AND RECIPROCITY, NOT BILATERAL. YOU MAY ALSO WISH POINT OUT THAT TIA(WHICH IS ALSO MAJOR INVESTOR IN SPANISH/SOUTH AMERICAN MELIA INTERNATIONAL HOTELS (MIH) CHAIN, IS PROVIDING SIGNIFICANT NEW INPUT TO BRAZILIAN TOURIST TRADE FROM AN OTHERWISE-PROBABLY-UNTAPPABLE US MARKET. CONGEN MIGHT DELIVER COPY OF CITED TD, WITH SUITABLE UNDERLINING, AND SHOULD INFORMALLY REQUEST GOB REEXAMINATION AND APPRO-

VAL OF TIA APPLICATION FOR BRAZILIAN FUEL TAX EXEMPTION.
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